2.0 OVERALL POLICY CONTEXT

In the Federal Register Notice announcing the 2002 power rate case, BPA described with particularity the nature and scope of the proceeding. 64 Fed. Reg. 44318 (1999). BPA explained that four major public consultation and review processes had been undertaken by BPA in the past five years, and that the rate case would implement policy decisions reached in these processes. *Id*. at 44319-23. The four major public processes referred to are the Business Plan public process, the Cost Review process, the Subscription Strategy process, and the Fish and Wildlife Funding Principles (Principles) process. *Id*. BPA stated that in the power rate case it would not revisit any policy determinations made in any of these processes. *Id*.

In particular, in the case of the Cost Review process, BPA stated that the rate proceeding would not revisit the methodology used to develop the Cost Review recommendations, the policy merits or wisdom of specific recommendations, or BPA's programmatic implementation plans. 64 Fed. Reg. at 44320. In the case of the Subscription Strategy process, BPA directed the Hearing Officer to exclude from the record material which seeks to revisit decisions made in the Subscription Strategy, including the Subscription Strategy ROD. *Id*. at 44322. In the case of the Principles, BPA directed the Hearing Officer to exclude material which attempts to revisit the policy merits or wisdom of the Principles or the strategy to "keep the options open." *Id*. In general, BPA's approach during the rate proceeding was to incorporate the results of these processes, as appropriate, into the rate proceeding and provide the parties the opportunity to evaluate the impact of those determinations on BPA's rates.

In this rate case, BPA has decided the methodologies needed to allocate or assign transmission and generation costs to the power and transmission business lines. Burns and Elizalde, WP-02-E-BPA-08, at 2. BPA continues to recognize the competitive threat posed by the deregulated wholesale electric power market and will therefore continue to assess and undertake actions that will ensure that BPA remains competitive. *Id*. at 4. BPA has undertaken to ensure that its revenue requirements, the repayment schedule, and the risk analysis take into account the full range of potential fish and wildlife costs in implementation of the Principles. *Id.*

2.1 Subscription

2.1.1 The Public Process

A process called "The Comprehensive Review of the Northwest Energy System" was convened in January 1996 by the Governors of Idaho, Montana, Oregon, and Washington to address and resolve many questions regarding the impact of energy deregulation and competition on BPA and the Pacific Northwest (PNW). Subscription ROD, at 1. The Governors appointed a 20-member Steering Committee broadly representative of various stakeholders in the region. The Steering Committee launched a public process that involved more than 100 meetings and various workgroups. The Steering Committee issued a draft report which generated more than 700 written comments. On December 12, 1996, the Steering Committee issued a Final Report. *Id*. at 2.

In its Final Report, the Comprehensive Review recommended that BPA institute a "Subscription-based system" for marketing power and offering new power sales contracts. The Comprehensive Review identified general parameters to guide BPA in this undertaking as well as a priority order among customers for power subscriptions. *Id*. at 1-2.

On February 20, 1997, BPA and the Pacific Northwest Utilities Conference Committee (PNUCC), a consortium of private utilities, public utilities, and industries, invited more than 2,800 interested parties to help define the Subscription Strategy public process. The collaborative effort to design a Subscription Strategy process began with a public meeting on March 11, 1997. At the meeting, a BPA/customer design team presented a proposed work plan, including a description of the National Environmental Policy Act (NEPA) strategy to support this effort. One week later, on March 18, 1997, BPA established a "Federal Power Marketing Subscription" web site to more broadly disseminate information about the Subscription process. *Id*. at 2.

An important element of the Subscription Strategy process was the formation of a Subscription Workgroup. The workgroup meetings were open to the public and scheduled to occur in Portland, twice a month, from March 1997 through September 1998. On average, 40-45 participants attended the meetings, including customers, customer associations, tribes, state governments, and public interest groups. Three subgroups formed to more intensely pursue the resolution of issues involving business relationships, products and services, and implementation. *Id*. at 2.

During the course of these meetings, BPA, its customers, and the other attendees defined issues, proposed product and pricing principles, and developed an implementation process for offering Subscription contracts. On September 18, 1998, following this 18-month public process, BPA issued its draft Subscription Strategy proposal. *Id*. at 3. In response to the draft proposal, BPA received over 200 separate written comments from numerous tribes, state utilities, industries, customers, public interest groups, and citizens. In addition, BPA held two transcribed public meetings to take comment on the draft proposal. *Id*. at 4.

On December 21, 1998, BPA issued the Subscription ROD. The Subscription ROD describes and explains BPA's position on a number of issues. *Id*. at 6. These include the availability of Federal power post-2001; the approach BPA plans to use in selling power by contract with its customers; the products from which customers can choose; and frameworks for pricing and contracts, including risk management. *Id*. at 1. In addition, in the Subscription ROD, BPA stated it was committed to the Principles announced in September 1998 by Vice President Gore. *Id*. at 1.

The four principal goals of BPA's Subscription Strategy are:

(1) To promote the spread of the benefits of the FCRPS as broadly as possible, with special attention given to the residential and rural customers of the region;

(2) To avoid rate increases through a creative and business-like response to markets and additional aggressive cost reductions;

(3) To allow BPA to fulfill its fish and wildlife obligations while assuring a high level of Treasury payment; and

(4) To support BPA's role as being a leader in the regional effort to capture the value of conservation and renewable resources.

Id. at 7.

With respect to providing service to customers, BPA stated in the Subscription ROD that it planned to offer 1,800 average megawatts (aMW) worth of benefits for the residential and small farm consumers of investor-owned utilities (IOUs), after meeting all public agency net firm load requirements. In addition, BPA stated that it expected to meet all loads that direct-service industrial customers (DSIs) asked BPA to serve. 64 Fed. Reg. at 44322.

The Subscription Strategy provides a marketing framework for the power rate case, reflects BPA's position on the equitable distribution of Federal power post-2001, and describes BPA's plan to fulfill its public responsibilities, including the protection of fish and wildlife. However, the Subscription Strategy and ROD did not establish any rates or rate designs. Instead, the Subscription process expressly deferred making such determinations to the instant rate proceeding. Subscription ROD, at 6–7.

2.1.2 Subscription Service to Publics and Investor-Owned Utilities (IOUs)

BPA designed its 2002 rates to implement the four goals of the Subscription Strategy. Burns and Elizalde, WP-02-E-BPA-08, at 7. BPA's rates are designed to promote the spread of benefits of the FCRPS while avoiding increases in average Priority Firm Power (PF) rates. *Id*. BPA will meet the net firm load requirements of its preference customers, offer a combination of power and financial benefits to regional IOUs for the benefit of their residential and small farm consumers, and serve a significant portion of DSI load at competitive rates. *Id*. Second, the 2002 rates fulfill BPA's commitment to the funding range established by the Principles. *Id*. at 8. Third, the 2002 rates also include a conservation and renewables discount (C&R Discount) available to customers purchasing Subscription power that is consistent with the Subscription Strategy. *Id*. The C&R Discount is intended to create incremental efficiency gains and renewable energy supplies, and provide incentives to continue the region's progress in low-income weatherization programs. *Id*. Finally, the 2002 rates include features designed to provide a response to power markets, help manage BPA's costs, and provide customers better information about the costs of their load placement decisions. *Id*.

BPA's public agency customers have criticized implementation of the policy goals of BPA's Power Subscription Strategy in the 2002 rate proposal. The Oregon Utility Resource Coordination Association (OURCA) acknowledges that BPA's power rate proposal is intended to implement the goals described in the Power Subscription ROD of December 21, 1998, including spreading the benefits of the FCRPS as broadly as possible. OURCA Brief, WP-02-B-OU-01, at 1. However, OURCA claims that BPA's rate proposal attempts to implement this goal at the expense of the statutory preference and priority rights accorded to the public preference customers. *Id*. OURCA argues that BPA should compare the cost-based rates to the rates that would apply if the rate test described in section 7(b)(2) were applied. *Id.* at 2. OURCA further states that any agreement for the sale of power to nonpublic preference customers such as the DSIs, settlement of matters such as the Residential Exchange rights of the IOUs, and any administrative determinations involving matters such as the appropriate interpretation of sections 5(b) and 9(c) of the Northwest Power Act are unlawful and void to the extent that they prevent BPA from selling power to the public preference customers at the rates and under the terms described above. *Id.* The Western Public Agencies Group (WPAG) states that the Subscription program that BPA is implementing in this rate proceeding is very different from that which BPA originally proposed to its preference customers. WPAG Brief, WP-02-B-WA-01, at 1. WPAG contends that the growth of the Subscription Program to encompass 3,300 aMW of service commitments to non-preference customers has resulted in BPA taking ratesetting actions that are contrary to its duties under the provisions of the Northwest Power Act, 16 U.S.C. §839, and detrimental to the long-term interests of preference customers. *Id*.

The Public Power Council (PPC), Springfield Utility Board (SUB), Industrial Customers of Northwest Utilities (ICNU), and OURCA argue that sales to BPA's non-preference customers, regional IOUs, and DSIs has come at the expense of BPA's preference customers in the form of charges that may be incurred for Federal service to load placed upon BPA after the Subscription window closes. PPC Brief, WP-02-B-PP-01, at 22; SUB Brief, WP-02-B-SP-01, at 3; ICNU Brief, WP-02-E-B-IN-02, at 6; OURCA Brief, WP-02-B-OU-01, at 1-2. PPC argues that sales to non-preference customers will have the effect of reducing the availability of the Federal Base System (FBS) resources to serve public agency loads. PPC Brief, WP-02-B-PP-01, at 24. PPC states that BPA purchases to supplement the FBS in order to serve public agency loads that arise after September 30, 2000, for service until October 1, 2001, will be treated as FBS replacements. *Id*. As a result, market-based costs that preference agency loads would not otherwise bear will be imposed through a Targeted Adjustment Charge (TAC) and through related "adjustments" and charges for service from the FBS. *Id*. Similarly, ICNU argues that BPA's proposed TAC, Targeted Adjustment Charge for Uncommitted Loads (TACUL), and Stepped-Up Multiyear (SUMY) Block Charge have the economic effect of restricting deliveries of PF power. ICNU Brief, WP-02-B-IN-02, at 7. OURCA and ICNU both discuss the statutory preference that is provided to BPA's public body and cooperative utility customers. ICNU Brief, WP-02-B-IN-02, at 6-10; OURCA Brief, WP-02-B-OU-01, at 1-3. ICNU contends that BPA's proposed rates violate the preference requirements, because they discriminate within preference customer classes and against preference customers in favor of non-preference customers. ICNU Brief, WP-02-B-IN-02, at 6.

BPA is establishing rates that will allow BPA to meet the net firm load requirements of its preference customers, offer a combination of power and financial benefits to regional IOUs for the benefit of their residential and small farm customers, and serve a significant portion of the DSI load at competitive rates. Burns and Elizalde, WP-02-E-BPA-08, at 7. The proposed rates promote the spread of the benefits of the FCRPS while avoiding increases in average PF rates. *Id.* As stated in the Subscription ROD, the lowest cost-based PF rate is available to preference customers that sign contracts in the Subscription window for firm power to meet their regional firm power loads. *Id*. This section 7(i) rate proceeding establishes the rates that will apply to power sales under Subscription contracts. *Id*. The actual amount of power that BPA is obligated to sell to preference customers is determined by contract. Burns and Elizalde, WP-02-E-BPA-37, at 4. In making the PF rate available to its preference customers, BPA is under no obligation to restrict service to IOUs for service to their residential and small farm consumers and DSIs in order to further lower the PF rate. *Id.* Any legal challenges raised by the parties pertaining to any proposed rate are addressed in applicable sections in this ROD. As a matter of policy, BPA's 2002 power rates are in accord with applicable law.

BPA notes that there are no constraints on the supply of Federal power available to preference customers. *Id*. The proposal also includes more flexible power products and power product pricing, including stepped rates applicable to three- and five-year periods, market indexed rates, seasonal pricing, and the TAC. Burns and Elizalde, WP-02-E-BPA-08, at 6. BPA also proposed moving to 12 seasons for pricing both energy and demand. *Id*. This move allows BPA to shape its rates to reflect the relative prices of energy and demand at different times of the year in the west coast power market. *Id.* This will help BPA to manage its costs across years by helping to assure that existing resources are used as efficiently as possible. *Id*. Another means BPA will use to manage its costs is the TAC, which will apply to the customer's applicable rate. *Id*. The TAC is designed to recover the incremental costs BPA incurs to meet these incremental loads. *Id*. at 14. By instituting the TAC, BPA does not have to build additional revenues into the rates for requirements service. *Id*. This additional element will also help to meet BPA's rate stability pledge and spread FCRPS benefits by assuring that loads placed on BPA after the Subscription window closes face the full costs of serving those loads. *Id*.

In contrast to BPA's public agency customers, the IOUs and Portland General Electric (PGE) argue that BPA's rate proposal has not produced an end result that implements BPA's Subscription Strategy goal of spreading the benefits of the FCRPS as broadly as possible by giving special attention to the region's residential and small farm customers. IOU Brief, WP-02-B-AC/GE/IP/MP/PL/PS-01 at 5; PGE Brief, WP-02-B-GE-01, at 2. PGE also criticizes BPA's internal rate development process as being fragmented and thus failing to ensure that the end result of the process achieves the agency's goals. *Id*. at 1. The IOUs and PGE also claim that BPA's rate proposal provides 23 percent of the benefits of the FCRPS to the residential and small farm customers of the IOUs, who constitute 60 percent of such customers in the region. *Id.* at 2; WP-02-B-AC/GE/IP/MP/PL/PS-01, at 5. PGE also argues that BPA's process has resulted in a rate proposal that falls short when measured against BPA's policies of promoting conservation and sending market signals to customers that will encourage the economically efficient use of electric power. PGE Brief, WP-02-B-GE-01, at 2.

An important part of spreading the benefits of the FCRPS, with particular attention to residential and rural consumers, involves addressing how such customers within IOU service territories may benefit more directly from the FCRPS. Burns and Elizalde, WP-02-E-BPA-08, at 10. The IOUs and PGE claim that BPA's proposal provides only 23 percent of the benefits of the FCRPS to the residential and small farm consumers of IOUs, who constitute 60 percent of such customers in the region. *Id.* However, implementation of the Subscription goal of spreading the benefits of the FCRPS as broadly as possible, giving special attention to the region's residential and small farm customers, does not depend upon a specific type of a utility. Tr. 180. Rather, BPA is trying to spread the benefits as broadly as possible across the region regardless of the retail utility providing the service. *Id*. at 181. This issue is addressed in greater detail in ROD section 14.1.

With regard to the IOUs, BPA proposes to offer a combination of power and financial benefits to regional IOUs for the benefit of their residential and small farm consumers. Burns and Elizalde, WP-02-E-BPA-08, at 7. BPA's approach to spreading FCRPS benefits provides the IOUs with two options: (1) they may agree to a settlement of the Residential Exchange Program (REP) and purchase some Federal power at a rate approximately equivalent to the PF Preference rate; or (2) they can continue to participate in the Residential Exchange. *Id*. at 10. BPA's Subscription ROD proposed the equivalent of 1,800 aMW of Federal power for the fiscal year (FY) 2002-2006 period, delivered flat annually, assuming the IOUs settle participation in the Residential Exchange. *Id*. at 11. Of the 1,800 aMW, delivered flat, at least 1,000 aMW will be met with actual power deliveries. The remainder may be provided through either a financial arrangement or additional power deliveries, depending on which approach is most cost-effective for BPA. *Id*. BPA took public comment on whether BPA should increase the proposed settlement amount (1,800 aMW) by 100 aMW. Doubleday *et al*., WP-02-E-BPA-44, at 14. The comment period concluded, and BPA recently released its Power Subscription Strategy Administrator's Supplemental ROD. In that document, BPA reviewed public comments on the issue of whether the IOU settlement amount should be 1,800 aMW or 1,900 aMW. After BPA's review of such comments, BPA determined that 1,900 aMW be proposed as the amount of the IOU Subscription settlement benefits. Subscription Supplemental ROD, at 11-23 (April 26, 2000).

2.1.3 <u>Subscription Service to the Direct Service Industrial Customers (DSIs)</u>

Although BPA stated in the Subscription ROD that it expected to meet DSI loads, BPA also noted that the actual level of service to the DSIs was contingent on the availability of power remaining after the close of the Subscription window. 64 Fed. Reg. at 44322. Subscription ROD at 69-70. The Subscription ROD notes that BPA was not prepared at the time the Subscription ROD was issued to make a number of final decisions, including final decisions regarding augmentation in order to serve DSI load. Subscription ROD, at 70. However, subsequent to the Subscription ROD, BPA developed a proposal for service to the DSIs at a rate above PF, but still at prices well below the projected market prices for power. In the Federal Register Notice announcing this rate case, BPA briefly described this proposal, noting that it would be subject to full consideration in the rate proceeding. As stated in the Federal Register Notice:

> BPA has decided to propose serving approximately 1,440 aMW of DSI load. BPA does not intend to conduct a separate public process to take comments on this proposal. Therefore, parties to the rate case may raise and discuss any issues regarding BPA's proposal to serve the DSIs, including any issues regarding the potential effects of this proposal on BPA's rates.

64. Fed. Reg. at 44322.

Accordingly, while determinations made in the Subscription ROD were expressly excluded from reconsideration in the rate case, the scope of the hearing expressly included BPA's proposal for service to the DSIs.

2.2 Maintaining Stable Rates

Another Subscription goal is to avoid rate increases to the average rates for BPA's public agency customers. PPC expressed a concern that BPA has changed its rate pledge from "two cents in 2000" to one of the four "principle [sic] goals" in the Power Subscription Strategy of "avoiding rate increases through a creative and business-like response to markets and additional aggressive cost reductions." PPC Brief, WP-02-B-PP-01, at 21. PPC argues that BPA claims to "avoid rate increases," but at the same time BPA has increased the amount that BPA customers will pay for power through a variety of rate design techniques. *Id.*

PPC also expressed a concern that cost refunctionalization decreases customers' power bills but shifts a corresponding increase over to customers' transmission bills. PPC Brief, WP-02-B-PP-01, at 22. PPC claims that BPA chooses to ignore the five "adjustments" and charges that attach to PF power sold and are billed to customers, which, PPC claims, BPA must revise or eliminate in order to make good on its pledge. *Id*. PPC argues that BPA adds the C&R Discount to reduce a preference customer's power bill, which adds to the mischaracterization of the PF-02 rates as the unincreased equal to PF-96. *Id*.

BPA's proposed rates are designed to implement the four goals of the Subscription Strategy. Burns and Elizalde, WP-02-E-BPA-08, at 7. BPA's proposed rates promote the spread of the benefits of the FCRPS while avoiding increases in average PF rates. *Id.* BPA proposes to meet the net firm load requirements of its preference customers, offer a combination of power and financial benefits to regional IOUs for the benefit of their residential and small farm consumers, and serve a significant portion of DSI load at competitive rates. *Id.* This proposal also includes a C&R Discount available to customers purchasing Subscription power consistent with the Subscription Strategy. *Id.* at 8. This proposal includes features designed to provide a response to power markets, help manage BPA costs, and provide customers better information about the costs of their load placement decisions. *Id.* These include the following features of this proposal: three- and five-year fixed rate options, moving to 12 seasons for energy and demand pricing, the TAC, cost-based indexed PF rate options, IP rate options, and the Cost Recovery Adjustment Clause (CRAC). *Id.*

The Subscription Strategy goal of no PF rate increase was never intended by BPA to cover items functionalized to transmission, including costs associated with ancillary services. *Id.* at 6. BPA has been functionalizing costs and revenues to generation and transmission for years. *Id.* These practices have been aired and tested in prior rate proceedings and reviewed by FERC. *Id.* The few changes BPA proposed are in response to FERC policies related to the unbundling of transmission and ancillary services from power rates. *Id.* As in previous rate cases, BPA continues to functionalize costs in a manner consistent with jurisdictional utilities. *Id. See* DeWolf *et al.*, WP-02-E-BPA-39, at 46. BPA has not moved costs from power to transmission to achieve the rate goal, and PPC has provided no evidence or support for its contention. *Id.*

2.3 The Fish and Wildlife Funding Principles

On September 21, 1998, Vice President Gore announced that "a new set of principles will enable the BPA to continue providing low-cost power in the PNW while committing necessary funding for salmon restoration in the Columbia River Basin." Revenue Requirement Study Documentation, WP-02-E-BPA-02A, at 358. These Principles were developed following a massive public involvement process that included numerous Federal agencies (including the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), Bureau of Reclamation (Reclamation), U.S. Army Corps of Engineers (COE), and Environmental Protection Agency (EPA)), state agencies, the Northwest Congressional delegation, Columbia Basin tribes, public interest groups, BPA customers, and interested members of the public. 64 Fed. Reg. at 44321.

The public process that culminated in the Principles focused on developing guidelines for structuring BPA's approach to Subscription contracts and BPA's 2002-2006 power rates to ensure that BPA could meet all its financial obligations, including those for fish and wildlife, given hydro conditions, market prices, fish recovery costs, and other uncertainties. *Id*. The Principles specify, among other things, that BPA will take into account the entire range of potential fish and wildlife costs, as reflected in 13 long-term alternatives for configuration of the FCRPS, and treat the alternatives as if each is equally likely to occur. *Id*.

As noted by BPA in the Federal Register Notice announcing the rate case, final decisions and approvals on a fish and wildlife recovery strategy have yet to be made. 64 Fed. Reg. at 44320-21. Because rates are being set before those decisions are made, the driving goal of the Principles is to "keep the options open." *Id*. This is accomplished by taking into account the range of potential costs associated with each hydrosystem configuration alternative. The Principles are intended to ensure that BPA ultimately develops rates and executes power sales contracts that yield a very high probability of BPA meeting all post-FY 2001 financial obligations, including BPA funding obligations for the fish and wildlife recovery strategy that is eventually adopted.

In the Federal Register Notice announcing the rate case, BPA stated it would exclude testimony in the rate case which would, in effect, seek to revisit the merits or wisdom of policy level determinations made in the Principles. As stated in the Federal Register, the Hearing Officer was directed:

> to exclude from the record any material attempted to be submitted or arguments attempted to be made in the hearing which seek in any way to revisit the policy merits or wisdom of the strategy to "keep the options open" or of the Fish and Wildlife Funding Principles. The Principles were developed through extensive public involvement and comment processes and have been adopted as policy at the highest levels of the Administration. The rate proceeding will, however, address implementation of the Principles . . . .

64 Fed. Reg. at 44322.

As discussed more fully in section 5.3, *infra*, policy level determinations and program level costs are not properly subject to a section 7(i) hearing. The reason is that section 7(i) of the Northwest Power Act is applicable to the establishment of rates only, not broad policy determinations that may impact rates. Indeed, the Principles present one of the stronger arguments against subjecting these kinds of costs to a section 7(i) hearing, because section 4(h)(10) of the Northwest Power Act does not contemplate subjecting fish funding program determinations to a section 7(i) hearing. Moreover, given the extensive public process that preceded adoption of the Principles, subjecting these Principles to a second public process--in this case a formal evidentiary hearing--would serve only to undermine the former process, which was necessary to achieve the regional and political consensus needed to move forward in an atmosphere of uncertainty regarding BPA's fish and wildlife obligations.

2.4 <u>Bifurcation of Rate Cases Between Power Business Line and Transmission Business Line/FERC</u>

In setting rates for the period beginning in October 1, 2001, BPA bifurcated its general rate proceeding into separate power and transmission rate proceedings. 64 Fed. Reg. at 44323. BPA voluntarily decided on this approach because it has committed to marketing its power and transmission services in a manner modeled after the regulatory initiatives articulated by FERC in Orders 888 and 889. *Id*. In these orders, FERC directed utilities regulated under the Federal Power Act to "functionally unbundle" power and transmission services, and to establish separate rates for wholesale generation, transmission, and ancillary services. *Id*.

In 1996, consistent with these orders, BPA voluntarily began the process of administratively separating its operations into a Power Business Line (PBL) and a Transmission Business Line (TBL). BPA's PBL is primarily responsible for activities related to the generation and marketing of wholesale power, and BPA's TBL is primarily responsible for activities related to providing transmission and ancillary services. In BPA's initial testimony, BPA explained the reason why separate proceedings for establishing power and transmission rates were necessary. As stated therein:

> The two business lines have different practical needs with regard to rate case timing. BPA's power and transmission rates both expire on October 1, 2001. The Power Business Line (PBL) must establish rates for the post-2001 period now in order to move ahead with the Subscription process. *See* Burns and Elizalde, WP-02-E-BPA-08. However, the Transmission Business Line (TBL) has a number of reasons for deferring the transmission rate case until later in the 1996-2001 rate period. TBL's financial performance during the remainder of the rate period is uncertain, but will affect its financial position at the beginning of the next rate period. TBL's projected costs and sales during the next rate period are uncertain, but more reliable information will be available later in this rate period. Generating adequate revenue to cover costs in an uncertain future will be more feasible with a transmission rate case that is closer to the period for which rates are developed.

Metcalf and Cherry, WP-02-E-BPA-10, at 2.

Moreover, BPA witnesses noted that uncertainty in the transmission environment suggests that a later transmission rate case would be preferable. *Id*. at 3. As a result, TBL issued its initial proposal for the adjustment of rates for transmission and ancillary services on March 15, 2000. 65 Fed. Reg. at 14102.

In the Federal Register Notice announcing initiation of the power rate case, as well as in testimony, BPA described with particularity those issues that would be addressed in the wholesale power rate proceeding and those that would be addressed in the transmission rate proceeding. 64 Fed. Reg. at 44323; Metcalf and Cherry, WP-02-E-BPA-10, at 3-8. In addition, BPA noted that in the power rate case, BPA would decide the appropriate treatment of costs that mutually affect both the power and transmission business lines. The treatment of these inter-business line costs will determine whether the costs are recovered through power, transmission, or ancillary services rates. 64 Fed. Reg. at 44323; Metcalf and Cherry, WP-02-E-BPA-10, at 3-4.

Eugene Water & Electric Board (EWEB) raises a concern regarding the security for net billing agreements. EWEB requests the Administrator to "state in a straightforward way" in this proceeding that power rates will be supplemented with transmission system revenues if needed to meet BPA's third-party debt obligations. EWEB Brief, WP-02-B-EW-01, at 8. EWEB asks BPA to make clear its intent to honor current statutory and contractual obligations that support the security behind the net billing agreements. *Id*. EWEB believes BPA's obligations under the net billing arrangements require that both transmission and power revenues be available to meet BPA's net billed agreement obligations, and that both power and transmission rates should be established to ensure that BPA can meet those obligations. *Id*. at 7. In its brief on exceptions, EWEB states that the Draft ROD "stops short" of addressing its concern and reiterates that "[t]he Administrator should clearly state in the final ROD in this proceeding how conducting separate power and transmission rate proceedings and establishing rates of different lengths will allow BPA to meet FERC approval standards." EWEB Ex. Brief, WP-02-R-EW-01, at 3.

BPA believes that its position taken in the Draft ROD adequately addressed EWEB's concerns. As stated therein, in this rate proceeding BPA has taken into account all net billing costs in setting power rates, as well as all other power function costs. BPA's transmission rates will recover transmission costs. BPA has not identified a need to use transmission rates to recover power function costs, including net billed project costs. The initial 2002 power rate proposal was developed with input from both business lines (PBL and TBL), and both have participated throughout the power rate case. Cherry and Metcalf, WP-02-E-BPA-10, at 6. The proposals and decisions are made by the BPA Administrator, not by either business line. *Id*. In response to EWEB's concern over recovery of BPA's total costs, BPA's policy witnesses testified that "BPA is mindful that its rates, taken in total, must recover BPA's costs, taken in total." Burns and Elizalde, WP-02-E-BPA-37, at 11.

Finally, as EWEB correctly points out, under the Transmission System Act of 1974, to the extent that net billing credits are insufficient to reimburse EWEB for Trojan Project costs, under current law BPA is obligated to reimburse EWEB in cash from the BPA Fund. *See* 16 U.S.C. §838. By law, these cash reimbursements would be paid: (1) from revenues in the BPA Fund, regardless of whether the revenues are derived from the transmission function or the power function; and (2) ahead of BPA payments to the U.S. Treasury. 16 U.S.C. §838k(6). BPA believes that the likelihood of BPA being in a position of being unable to meet a cash requirement under the net billing agreements in the rate period is extremely remote.